

INITIATIVE PETITION

To the Honorable Olene S. Walker, Lieutenant Governor:

We, the undersigned citizens and registered voters of the State of Utah, respectfully demand that the following law, to be entitled, "INITIATIVE FAIRNESS ACT" be submitted to the legal voters of Utah for their approval or rejection at the regular general election to be held on November 2, 2004. Each signer says: "I have personally signed this petition; I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and my residence and post office address are written correctly after my name."

INITIATIVE FAIRNESS ACT

AN ACT RELATING TO THE ELECTION CODE PROVISIONS REGULATING STATEWIDE INITIATIVES; REPEALING AND REENACTING PROVISIONS REGULATING THE SIGNATURE REQUIREMENTS ON PETITIONS, TIME PERIODS AND CRITERIA FOR QUALIFICATIONS, THE FORM OF THE INITIATIVE PETITIONS AND SIGNATURE SHEETS, CIRCULATION REQUIREMENTS, AND THE LIEUTENANT GOVERNOR'S SUFFICIENCY DETERMINATION AND RESUBMITTAL OF NAMES; ENACTING GUIDELINES FOR PUBLIC HEARINGS; AMENDING UNFAIR NAME REMOVAL PROCEDURES; AND PROVIDING INTENT LANGUAGE AND SEVERABILITY PROVISIONS.

This act affects sections of the Utah Code Annotated 1953 as follows:

AMENDS:

20A-7-205, as last amended by Chapter 3, Laws of Utah 2000

ENACTS:

20A-7-204.1, Utah Code Annotated 1953

REPEALS AND REENACTS:

20A-7-201, as last amended by Chapter 115, Laws of Utah 1999

20A-7-202, as last amended by Chapter 45, Laws of Utah 1999

20A-7-203, as last amended by Chapters 3 and 75, Laws of Utah 2000

20A-7-207, as last amended by Chapters 153 and 165, Laws of Utah 1995

Be it enacted by the people of the State of Utah:

Section 1. **20A-7-205** is amended to read:

20A-7-205. **Obtaining signatures -- Verification -- Removal of signature.**

(1) Any Utah voter may sign an initiative petition if the voter is a legal voter.

(2) The sponsors shall ensure that the person in whose presence each signature sheet was signed:

(a) is at least 18 years old and meets the residency requirements of Section **20A-2-105**; and

(b) verifies each signature sheet by completing the verification printed on the last page of each initiative packet.

(3) (a) (i) Any voter who has signed an initiative petition may have his signature removed from the petition by submitting a notarized statement to that effect to the county clerk.

(ii) In order for the signature to be removed, the statement must be received by the county clerk by the June 1st submittal deadline applicable to the petition sponsors as provided in Section 20A-7-206.

(b) Upon receipt of the statement, the county clerk shall remove the signature of the person submitting the statement from the initiative petition

(c) No one may remove signatures from an initiative petition after the petition is submitted to the lieutenant governor.

Section 2. **20A-7-204.1** is enacted to read:

20A-7-204.1 Public Hearings.

(1) Initiative sponsors are encouraged to provide opportunity for public hearings and to appear at any public hearing called by a county, city or other public body for the purpose of discussing an initiative petition.

(2) Holding public hearings and participation at public hearings shall not be a necessary condition for circulating a petition for signature, nor a condition for a determination of sufficiency by the lieutenant governor.

Section 3. **20A-7-201** is repealed and reenacted to read:

20A-7-201. Statewide initiatives -- Signature requirements -- Submission to the Legislature or to a vote of the people.

(1) (a) A person seeking to have an initiative submitted to the Legislature for approval or rejection shall obtain:

(i) legal signatures equal to 5% of the cumulative total of all votes cast for all candidates for governor at the last regular general election at which a governor was elected; and

(ii) from each of at least 15 Utah Senate Districts, legal signatures equal to 5% of the total of all votes cast in that senate district for all candidates for governor at the last regular general election at which a governor was elected.

(b) If, at any time not less than ten days before the beginning of an annual general session of the Legislature, the lieutenant governor declares sufficient any initiative petition that is signed by enough voters to meet the requirements of this Subsection (1), the lieutenant governor shall deliver a copy of the petition and the cover sheet required by Subsection (1)(c) to the president of the Senate, the speaker of the House, and the director of the Office of Legislative Research and General Counsel.

(c) In delivering a copy of the petition, the lieutenant governor shall include a cover sheet that contains:

(i) the cumulative total of all votes cast for all candidates for governor at the last regular general election at which a governor was elected;

(ii) the total of all votes cast in each senate district for all candidates for governor at the last regular general election at which a governor was elected;

(iii) the total number of certified signatures received for the submitted initiative; and

(iv) the total number of certified signatures received from each senate district for the submitted initiative.

(2) (a) A person seeking to have an initiative submitted to a vote of the people for approval or rejection shall obtain:

(i) legal signatures equal to 10% of the cumulative total of all votes cast for all candidates for governor at the last regular general election at which a governor was elected; and

(ii) from each of at least 15 Senate districts, legal signatures equal to 10% of the total of all votes cast in that Senate district for all candidates for governor at the last regular general election at which a governor was elected.

(b) If, at any time not less than four months before any regular general election, the lieutenant governor declares sufficient any initiative petition that is signed by enough legal voters to meet the requirements of this subsection, the lieutenant governor shall submit the proposed law to a vote of the people at the next regular general election.

(3) The lieutenant governor shall provide the following information from the official canvass of the last regular general election at which a governor was elected to any interested person:

(a) the cumulative total of all votes cast for all candidates for governor; and

(b) for each county, the total of all votes cast in that senate district for all candidates for governor.

Section 4. **20A-7-202** is repealed and reenacted to read:

20A-7-202. Statewide initiative process -- Application procedures -- Time to gather signatures -- Grounds for rejection.

(1) Persons wishing to circulate an initiative petition shall file an application with the lieutenant governor.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the initiative petition;

(b) a statement indicating that each of the sponsors:

(i) is a resident of Utah; and

(ii) has voted in a regular general election in Utah within the last three years;

(c) the signature of each of the sponsors, attested to by a notary public; and

(d) a copy of the proposed law.

(3) The application and its contents are public when filed with the lieutenant governor.

(4) (a) The sponsors shall qualify the petition for the regular general election ballot no later than the second regular general election after the application is filed.

(b) If the sponsors fail to qualify the petition for that ballot, the sponsors must:

(i) submit a new application;

(ii) obtain new signature sheets; and

(iii) collect signatures again.

(5) The lieutenant governor shall reject the application and not issue circulation sheets if:

(a) the law proposed by the initiative is patently unconstitutional;

(b) the law proposed by the initiative is nonsensical; or

(c) the proposed law could not become law if passed.

Section 5. **20A-7-203** is repealed and reenacted to read:

20A-7-203. Form of initiative petition and signature sheets.

(1) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable _____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/ beginning on _____ (month/day/year):

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name."

(b) The sponsors of an initiative shall attach a copy of the proposed law to each initiative petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the initiative printed below the horizontal line;

(d) contain the word "Warning" printed or typed at the top of each signature sheet under the title of the initiative;

(e) contain, to the right of the word "Warning," the following statement printed or typed in not less than eight-point, single leaded type:

"It is a class A misdemeanor for anyone to sign any initiative petition with any other name than his own, or knowingly to sign his name more than once for the same measure, or to sign an initiative petition when he knows he is not a registered voter and knows that he does not intend to become registered to vote before the certification of the petition names by the county clerk.";

(f) contain horizontally ruled lines, 3/8 inch apart under the "Warning" statement required by this section; and

(g) be vertically divided into columns as follows:

(i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle with the left subdivision entitled "Registered" and the right subdivision left untitled;

(ii) the next column shall be three inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iii) the next column shall be three inches wide, headed "Signature of Registered Voter"; and

(iv) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code".

(3) The final page of each initiative packet shall contain the following printed or typed statement:

"Verification

State of Utah, County of _____

I, _____, of _____, hereby state that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by persons who professed to be the persons whose names appear in it, and each of them signed his name on it in my presence;

I believe that each has printed and signed his name and written his post office address and residence correctly, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

(Name) (Residence Address) (Date)"

(4) The forms prescribed in this section are not mandatory, and, if substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

Section 6. **20A-7-207** is repealed and reenacted to read:

20A-7-207. Evaluation by the lieutenant governor.

(1) When each initiative packet is received from a county clerk, the lieutenant governor shall check off from his record the number of each initiative packet filed.

(2) (a) After all of the initiative packets have been received by the lieutenant governor, the lieutenant governor shall:

- (i) count the number of the names certified by the county clerks that appear on each verified signature sheet; and
(ii) declare the petition to be sufficient or insufficient by July 6 before the regular general election.
(b) If the total number of certified names from each verified signature sheet equals or exceeds the number of names required by Section 20A-7-201, the lieutenant governor shall mark upon the front of the petition the word "sufficient."
(c) If the total number of certified names from each verified signature sheet does not equal or exceed the number of names required by Section 20A-7-201, the lieutenant governor shall mark upon the front of the petition the word "insufficient."
(d) The lieutenant governor shall immediately notify any one of the sponsors of his finding.
(3) (a) Once a petition is declared insufficient, the sponsors may not submit additional signatures to qualify the petition for the pending regular general election.
(b) The petition sponsors may submit additional signatures to qualify the petition for the regular general election following the pending regular general election if:
(i) the petition is declared insufficient; and
(ii) the pending general election is the first regular general election after the application was filed.
(4) (a) If the lieutenant governor refuses to accept and file any initiative petition that a sponsor believes is legally sufficient, any voter may, by July 20, apply to the supreme court for an extraordinary writ to compel the lieutenant governor to do so.
(b) The supreme court shall:
(i) determine whether or not the initiative petition is legally sufficient; and
(ii) certify its findings to the lieutenant governor by July 30.
(c) If the supreme court certifies that the initiative petition is legally sufficient, the lieutenant governor shall file it, with a verified copy of the judgment attached to it, as of the date on which it was originally offered for filing in his office.
(d) If the supreme court determines that any petition filed is not legally sufficient, the supreme court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot for the next election.
Section 7. Intent language – Severability clause.
(1) It is the intent of this initiative to repeal the existing provisions and to re-enact the foregoing language which is intended to replace and repeal by implication any and all contrary provisions which may be in effect at the time this initiative may be enacted.
(2) It is the intent of this initiative that if any provision of this initiative or the application of any provision of the initiative is held invalid, that the remainder shall be given effect without the invalid provision with the exception of Sections 20A-7-201 (1)(a)(i) and Section 20A-7-201(1)(a)(ii) which shall not be severable from each other.
-

I, Olene S. Walker, Lieutenant Governor of the State of Utah, hereby certify that the initiative entitled "INITIATIVE FAIRNESS ACT" contained in this petition section is a full, true and correct copy of that initiative as proposed by the sponsors for referral to the people of the State of Utah for their approval as law, or rejection.

Dated this 2nd day of May, 2003



Olene S. Walker
Lieutenant Governor



State of Utah, County of _____

I, _____, of _____ County, hereby state that:

- I am a resident of Utah and am at least 18 years old;
- All the names that appear in this packet were signed by person who professed to be the persons whose names appear in it, and each of them signed his name on it in my presence;
- I believe that each has printed and signed his name and written his residence address correctly, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

Signature

Address

Date

INITIATIVE FAIRNESS ACT

WARNING: It is a class A misdemeanor for anyone to sign any initiative or referendum petition with any other name than his or her own, or knowingly sign their name more than once for the same measure, or to sign an initiative or referendum petition when he or she knows that they are not a registered voter and knows that they do not intend to become registered to vote before the certification of the petition names by the county clerk.

For Office Use only REGISTERED VOTER'S PRINTED NAME
(must be legible to be counted)

SIGNATURE OF REGISTERED VOTER

STREET ADDRESS, CITY, STATE, ZIP CODE

[illegible]